

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BALLARD NURSING CENTER, INC.,

Plaintiff,

v.

ACCUBUILT, INC. and JOHN DOES 1-10,

Defendants.

No. 08 C 260

Judge Robert W. Gettleman

**UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO FILE RESPONSIVE
PLEADING**

Defendant, Accubuilt, Inc. ("Accubuilt"), by its attorneys, respectfully seeks an enlargement of time, up to and including Monday, January 28, 2008, to answer or otherwise respond to the putative Class Action Complaint ("Class Action Complaint") filed by Ballard Nursing Center, Inc. ("Ballard"). In support of its Motion, Accubuilt states the following:

1. This action was commenced on December 7, 2007, when Ballard filed its Class Action Complaint in the Circuit Court of Cook County, Illinois, County Department, Chancery Division under court number 07 CH 36133. Copies of the Service of Process, Summons, and Complaint served upon Accubuilt are attached hereto as Group Exhibit A.

2. In its Class Action Complaint, Ballard alleges that Accubuilt sent to it an "unsolicited fax advertisement" in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA") and the Illinois Consumer Fraud Act, 815 ILCS 505/2 ("ICFA"). (Complaint, 21 and 31, respectively.) Ballard also alleges that the sending of the facsimile constituted "conversion" under Illinois common law. (Id., 50.) Ballard's Class Action Complaint seeks actual and statutory damages on behalf of Ballard and all other similarly situated persons. (Id., 29.)

3. On Wednesday, January 9, 2008, Accubuilt's counsel was retained to represent Accubuilt in this case.

4. On Friday, January 11, 2008, Accubuilt filed its Notice of Removal of Ballard's Class Action Complaint from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois. A copy of the Notice of Removal is attached hereto as Exhibit B.

5. According to Federal Rule of Civil Procedure 81(c)(2), Accubuilt's responsive pleading is due five (5) days after the notice of removal was filed, on Friday, January 18, 2008.

6. Because of the complex subject matter of the Class Action Complaint, counsel for Accubuilt respectfully requests an enlargement of time to fully investigate Ballard's claims and adequately respond to the Ballard's Class Action Complaint.

7. Accubuilt's counsel requests an additional ten (10) days, up to and including Monday, January 28, 2008, to file a responsive pleading to Ballard's Class Action Complaint.

8. Accubuilt's counsel discussed this motion with Ballard's counsel on Friday, January 11, 2008. Ballard's counsel has no objection to this motion.

WHEREFORE, Defendant Accubuilt, Inc. respectfully requests an enlargement of time up to and including January 28, 2008, to answer or otherwise respond to Ballard's Class Action Complaint.

Dated: January 11, 2008

Respectfully submitted,

ACCUBUILT, INC.

By: s/ Thomas P. Cimino, Jr.

One of Its Attorneys

Thomas P. Cimino, Jr., Bar No. 06195940
Brian W. Ledebuhr
Vedder Price P.C.
222 North LaSalle Street
Suite 2600
Chicago, IL 60601-1003
(312) 609-7500